



February 15, 2022

**VIA ECF & E-MAIL**

The Honorable Katherine Polk Failla  
United States District Judge  
U.S. District Court, Southern District of New York  
40 Foley Square, Room 2103  
New York, NY 10007

Re: *Commissions Import Export S.A. v. Republic of the Congo*, No. 1:19-mc-00195-KFP

Dear Judge Failla:

I write to correct and clarify several inflammatory assertions made in the concluding paragraph of the letter from counsel of Petitioner Commissions Import Export S.A. (“Petitioner”) to your Honor dated January 17, 2022 (Dkt. #98 at 4). Petitioner’s letter mischaracterizes the record and falsely accuses counsel for Respondent Republic of the Congo (the “Republic”) of dishonesty in two respects.

First, Petitioner’s letter asserts that undersigned counsel misled the Court in response to a question asked during the December 16, 2019 hearing. Petitioner’s letter supplies only a partial quote—“We have no involvement [in France]”—but ignores the context, which is provided by the surrounding sentences. Those omitted sentences show that undersigned counsel was drawing a distinction between the Republic’s litigation efforts in this case, on the one hand, and the Republic’s arbitration counsel’s efforts in France to challenge an arbitration award, on the other:

MR. SULLIVAN: ....That arbitration award [issued in France] continues to be defended by the Republic of Congo by French lawyers. We have no involvement there. They are looking — as I understand it, your Honor, the lawyers representing the Republic of the Congo in France continues to look for avenues to have that award set aside.

(Dkt. #36 at 10:3-8). The representations made by undersigned counsel during that hearing remain true: the Ashcroft Law Firm does not represent the Republic with regard to those arbitration proceedings.

Second, Petitioner’s letter makes a misleading and cryptic allusion to a declaration and purported foreign criminal complaint naming the Republic’s counsel as an “accomplice.” Presumably, Petitioner is referencing a factual declaration/witness statement provided by undersigned counsel at the request of the Republic’s French arbitration counsel. In that declaration, undersigned counsel recounts information told to undersigned counsel (and at least four other individuals on more than one occasion) by a witness regarding bribes paid to one of the arbitrators on the panel. The Republic’s French counsel subsequently determined this information should be



brought to the attention of the ICC and French authorities, the result of which, as noted previously, is a new panel being convened to reopen the arbitration. In this light, Petitioner's accusation of "misconduct" and suggestion that the Court "is not dealing with honest people" is both disingenuous and unprofessional.

Respectfully submitted,

/s/Michael J. Sullivan

Michael J. Sullivan

CC: All counsel by ECF